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Report of the Dean 1963–1964

Joseph O'Meara
Notre Dame Law School

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Report of the Dean



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Notre Dame Law School



Report of the Dean

1963-1964

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Dean's Report 1963-64

From a 1963 graduate:

"I wish to thank you and the faculty of the School for teaching me the ways of the law, but even more importantly, the ways of hard work and the pride in scholastic endeavor."

From another 1963 graduate:

"Again, you have my thanks for a fine legal education. As much as anything I appreciated the opportunity to associate for three years with a remarkable collection of students. The legal profession will be hearing from many, many of them."

From a 1964 graduate who is serving as law clerk for a United States Circuit Judge:

"I have passed the Bar Examination. Although no grades were given out on the examination, the bar-examiners did inform the Judge that my papers were among the highest they had received. I am sure that this result is not due to any inherent ability on my part, but came about because of the three years of excellent instruction I received at Notre Dame. There was no part of the examination, which covered three days and fifteen courses, about which I felt hesitant. If I can be of any service at all to the Law School, please let me know."

* * * * *

As this Report goes to press, a letter from Washington brings the following welcome news:

"Dave Link [61L] has just been named young government lawyer of the year. Five such awards are made annually by the Federal Bar Association to lawyers in federal service. The academic and professional qualifications of the many nominees from the various agencies were extremely high, so Dave's selection is a fine and deserved reflection on the Notre Dame Law School."

At the dinner which marked the announcement of my appointment to the deanship, I said that the most important thing in any law school is not the dean or the faculty or the curriculum, but the student body. At the outset of this report, therefore, I propose to set down some observations concerning our students, past, present and prospective.

THE STUDENT BODY

ENROLLMENT

The entering class last September numbered 76 as against 66 in September of 1962. Total enrollment rose to 170 from 151 the previous September.

Last year's student body included students from 30 states. Fifty-seven colleges and universities were represented. Twenty-seven per cent of the students were married; 15% were veterans. The students ranged in age from 20 to 49. Eighty per cent were between 21 and 24, inclusive.

Eight years ago, in September of 1956, the students came from 18 states and the District of Columbia. This very substantial increase in the number of states from which our students come (30 last September) indicates, I believe, that The Law School is exerting a progressively wider appeal.

The number of applications for admission has been growing steadily since 1954. In that year we received a total of 126 applications. As of now (August 15) we have received 407 applications for admission next month.

According to our projection, based on past experience, approximately 110 of these applicants will register, as against 76 who enrolled last September. If that turns out to be the case, the 1964 entering class will be the largest in my years as dean. I do not attempt to explain this sudden upsurge. It will create real problems for us and test the ingenuity of all members of the Faculty teaching

first-year courses. We look upon it as a challenge and I have full confidence that, a year from now, I will be able to report that the challenge was successfully met.

MORTALITY

The percentage of first-year students dismissed for scholastic deficiency was approximately the same as the year before. The failure rate in each of the last five academic years is shown in the following table.

	1st year	2nd year	3rd year
1959-60	25.6	8.3	0.0
1960-61	22.2	6.0	0.0
1961-62	14.1	7.3	2.0
1962-63	10.6	2.0	0.0
1963-64	10.2	6.4	0.0

The declining failure rate reflects higher entrance requirements. As it can be expected that these requirements will be raised again, on the basis of a study we are now making, the failure rate may drop still further. On the other hand, the decline in the failure rate cannot be expected to continue indefinitely. This is so because, as the quality of the student body rises, the standard of performance expected of students must rise, too. As a matter of fact, I think students expect it. I am confident it would not flatter them to be judged by the same standard of performance developed for and applied to less gifted predecessors.

Total first-year attrition (including voluntary as well as involuntary withdrawals) was approximately the same as the year before, 22.3% as against 22.7% the previous year.

STANDARDS OF ADMISSION

If there is a growth in applications for admission in September of 1965 comparable to the increase in applications we have experienced this year, we can expect to have approximately 600 applicants from whom to select an entering class of 100, the maximum long ago decided on. As already noted, our projection indicates more than that number will enroll in September. The sudden bulge in first-year

students, which now seems likely, was not indicated when the 1964-65 Bulletin was prepared. Accordingly, it contains no limitation on the size of the entering class; and, of course, we could not fairly impose a limit *ex post facto*. Hence everyone meeting our previously announced entrance requirements has been accepted even though, as now seems probable, this will result in a larger entering class than we can properly accommodate in our present quarters.

If the indicated number of applications for admission in September of 1965 in fact materializes, that is, approximately 600, it is plain we will be confronted with a new kind of selection problem. Heretofore our concern has been merely to screen out those who, in all probability, were not equipped to meet the challenge of our program. Next year we will be faced for the first time with the necessity of selecting the best 100 out of the 600 or so who apply. Impossible, of course; the available criteria are much too fallible. Nevertheless, we have to try. To that end we are now making a careful study of our experience since the adoption, in the summer of 1961, of our present admissions requirements.

RECRUITMENT

Although it seems reasonable to expect that we will have more applicants next year than we can properly accommodate in our present quarters, our policy of vigorous recruitment will be continued. It will be just as necessary as ever, because its primary aim is to attract students of exceptional talent. This is most important because no law school can become great or continue great without a topnotch student body. The finest faculty ever assembled will produce indifferent results if the students are mediocre. The best of faculties needs the stimulation of keen, alert, diligent students; and the student body needs stimulation from its own ranks as well as from its instructors. In a great law school the faculty and the students are constantly infecting one another with enthusiasm and zeal.

Recruiting trips since my last Annual Report have been made by the following members of our Faculty: Assistant Dean Broderick and Professors Thomas F. Broden, Conrad L. Kellenberg, Edward J. Murphy, John T. Noonan, Thomas L. Shaffer and Bernard J. Ward.

A number of distinguished judges were extremely helpful in this work, namely, Chief Judge Charles S. Desmond of the New York

Court of Appeals, Judge Roger J. Kiley, '23L, of the United States Court of Appeals for the Seventh Circuit, Justice William B. Lawless, '44L, of the New York Supreme Court, Justice Michael D. O'Hara of the Michigan Supreme Court, and Judge Luther M. Swygert, '27L, of the United States Court of Appeals for the Seventh Circuit.

Special mention should be made, also, of the following alumni and friends of the School, who were exceptionally helpful in giving the word about Notre Dame to prospective law students.

Norman J. Barry, '48L
Edward Bartoli, '58L
Patrick J. Berrigan, '57L
Edward F. Broderick, Jr., '56L
Raymond J. Broderick, '35
Howard V. Burke, '53L
Thomas S. Calder, '57L
Richard C. Clark, '59L
John A. DiNardo, '60L
Ray F. Drexler, '58L
Edward J. Duffy, Jr., '51L
Carl F. Eiberger, '54L
Donald A. Garrity, '60L
Robert P. Gorman, '57L
Burton M. Greenberg, '58L
Daniel W. Hammer, '59L
William J. Harte, '59L
Paul F. Hellmuth, '40
John C. Hirschfeld, '61L

Matthew T. Hogan, '60L
F. James Kane, '60L
Lawrence A. Kane, Jr., '57L
John R. Martzell, '61L
George P. McAndrews, '62L
Robert D. McAuliffe, '49L
David N. McBride, '55L
Patrick F. McCartan, '59L
Harold E. McKee, '63L
Thomas B. McNeill, '58L
George P. Michaely, '56L
Robert P. Mone, '59L
John R. Nesbitt
Paul H. Titus, '60L
George N. Tompkins, '56L
G. W. VanderVennet, '32L
Hugh E. Wall, Jr., '36L
Eugene F. Wayne, '58L

I am most grateful to all of them.

SCHOLARSHIPS

Since a law school's quality depends on the quality of its students more than on any other single factor, it is easy to understand why a student who has a really first-rate college record and a high score on the Law School Admission Test can obtain a scholarship at any of the Country's leading law schools. Such students are needed as pacemakers, to stimulate their fellow students and, very important, to stimulate the Faculty. The effectiveness of a faculty is by no means a constant; it rises and falls as the quality of the students improves or deteriorates.

When I came to Notre Dame in the fall of 1952 there was not a single dollar of scholarship money available. Under the leadership of Mr. Clarence J. Donovan, '31L, when he was president in 1953-54, the Notre Dame Law Association undertook to correct that unhappy situation by inaugurating a scholarship program. This project has moved steadily ahead and, in the last three years, the Notre Dame Law Association has raised \$185,938.18 to bring to Notre Dame first-rate students who otherwise would have studied law somewhere else.

Along with the increase in applications for admission, already referred to, there was an increase in applications for scholarship assistance. Of the applicants for admission who were accepted, 41.4% sought a scholarship, many if not most saying they could not afford to come to Notre Dame without such help. Thus, as the enrollment grows, the need for scholarships becomes more and more acute.

As I have said so many times, *excellence is our platform and we can be content with nothing less*. Just as Notre Dame's athletic teams always play to win, so the Notre Dame Law School aims at being the best — not just good, not even *very* good, but the *very best*. To that end, it is just as necessary for us as it is for those responsible for the athletic programs to get the very best talent available.

But this presupposes the availability of sufficient scholarship funds to cope with the realities of our competitive situation. Specifically, it means we *must* have assurance of an absolute rockbottom minimum of at least \$135,000 a year for scholarships.

In 1963-64 the following either joined or renewed their membership in the "500" Club, many giving much more than the minimum of \$100.

Norman J. Barry, '48L
John F. Bodle, '50L
Hon. Hugh Boyle, '24
Roger P. Brennan, '33
Bernard D. Broeker, '30
J. Patrick Canny, '28L
Thomas G. Carney, '27
John E. Cassidy, Sr., '17L
Thomas H. Clifford, Jr., '49L
John C. Cochrane, '23L
John T. Connolly, '51L
John P. Coyne, '55L
Frank X. Cull, '08

William J. Cusack, '14L
Charles B. Cushwa, Jr., '31
Louis L. Dapra, '40L
Warren A. Deahl, '43L
John D. Deeb, '51L
Joseph F. Deeb, '33L
Hon. John T. Dempsey, '21
Lawrence J. Dolan, '56L
Clarence J. Donovan, '31L
Oscar John Dorwin, '17
Thomas B. Dunn, '27
James F. Dwyer, '26
James L. Ferstel, '50L

William G. Ferstel, '00
 James T. Finlen
 John J. Fish, Jr., '55L
 Patrick J. Fisher, '37L
 Hon. Wm. T. Fitzgerald, '23
 Peter Flaherty, '51L
 Robert J. Flynn, '50L
 Theodore P. Frericks, '42L
 Frank J. Galvin, '23L
 Timothy P. Galvin, '16
 George H. Gore, '48L
 Robert F. Graham, '28
 Hon. Robert A. Grant, '30L
 Camille Gravel, Jr., '35
 Burton M. Greenberg, '58L
 Thomas G. Gutting
 Charles A. Haskell, '29L
 Edmund J. Haugh
 Paul F. Hellmuth, '40
 Henry M. Hogan
 Robert A. Hollencamp, '50L
 H. Clay Johnson, '34L
 Hon. William B. Jones, '31L
 Joseph B. Joyce, '56L
 Hon. Roger J. Kiley, '23L
 Joseph T. Kivlin, Jr., '48
 Marshall F. Kizer, '30L
 F. Richard Kramer, '51L
 Hon. William B. Lawless,
 Jr., '44L
 Emmett C. Lenihan, '26L
 Hon. F. Wendell Lensing, '30
 Russ Lesperance, '51L
 John J. Locher, Jr., '36L
 Peter H. Lousberg, '56L
 Wm. W. MacMillan, Jr., '53L
 Joseph E. Madden, '27
 J. Michael Malloy, Jr., '44
 William A. Marshall, '42
 Eugene A. Mayl, '24L
 David N. McBride, '55L
 Robert F. McCoy, '53L
 James G. McGoldrick, '42L

William F. McInerny, '41L
 Hon. John S. McKiernan, '34
 Leo V. McLaughlin, '32
 Joseph P. McNamara, '29L
 Hon. Thomas J. Meagher, '36
 William A. Meehan, '48L
 Albert H. Monacelli, '34
 Kenneth F. Montgomery
 Maurice J. Moriarty, '51L
 George B. Morris, Jr., '40L
 Thomas P. Mulligan, '38
 J. W. Mullin, Jr.
 Hon. James E. Murphy, '22L
 John P. Murphy, '12L
 John F. Murray, '58L
 Edward R. Neaher, '37
 David A. Nye
 John R. O'Connor, '50L
 Howard M. Packard
 John J. Reidy, '27L
 John R. Roche
 Charles W. Roemer, '58L
 Ray J. Schoonhoven, '43
 Ralph G. Schulz, '53L
 Eli J. Shaheen, '36L
 W. Lancaster Smith, '50L
 Alphonse A. Sommer, Jr., '48
 Alphonse A. Spahn, '48L
 Daniel J. Sullivan, '40
 Hon. Luther M. Swygert, '27L
 William J. Syring, '42L
 Mark S. Tolle, '55L
 Joseph A. Tracy, '42
 Raymond W. Troy, '34
 G. W. VanderVennet, '32L
 Bernard J. Voll, '17
 William E. Voor, '25L
 Hugh E. Wall, Jr., '36L
 Donald F. Walter, '56L
 Bernard J. Ward
 A. Harold Weber, '22
 Chester A. Wynne, '22L

Special thanks are due, also, to the following benefactors other than "500" Club members.

Mrs. Charles Davis
 South Bend Tribune Foundation, Inc.
 The J. Frederick Brown Foundation
 Farmers Insurance Group
 Five Twenty-Five Foundation
 W. Gerald Moore Educational Foundation
 E. E. D. Shaffer Foundation
 The Dow Chemical Company
 Frank J. Lewis Foundation

OTHER FINANCIAL AID

Our student loan program, inaugurated early in 1959 with the cooperation of the Continental Illinois National Bank and Trust Company of Chicago, continued to function effectively. Thirty-three loans were made for a total of \$15,500. At the end of the academic year 44 loans were outstanding for a total of \$31,108.60. No loans were in default.

STUDENT ACTIVITIES

NOTRE DAME LAWYER

Five articles and three student notes which appeared last year in the *Lawyer* have been republished or are scheduled to be republished in books or other publications.

In the recent reapportionment cases in the Supreme Court, the *Notre Dame Lawyer* was cited in footnotes six times, the *Michigan Law Review* four times, the *Yale Law Journal* three times and thirteen other law reviews once each. See 84 S.Ct. 1362 *et seq.*

MOOT COURT

For the first time in eight years the court hearing the final argument in our Annual Moot Court Competition was not presided over by a member of the Supreme Court of the United States. Instead, we sought to do honor to two distinguished members of the United States Court of Appeals for the Fifth Circuit, namely, Chief Judge Elbert P. Tuttle of Atlanta and Judge Richard T. Rives of Mont-

gomery, Alabama. They have exemplified the highest traditions of judicial service under very trying circumstances. Notwithstanding criticism, condemnation and personal abuse, they have fulfilled their oath of office honorably and ably. Although it was our purpose to honor them, it was they, in fact, who honored us by coming to Notre Dame to sit as judges in the final argument of our Annual Moot Court Competition. Sitting with them was United States District Judge Jesse Eschbach of Fort Wayne, Indiana.

The students who participated in the argument before this distinguished tribunal were Mr. Michael B. Ryan of Buffalo, Mr. James K. Sutherland, Jr., of Flint, Mr. Robert E. Frost of Bellefontaine, Ohio, and Mr. Michael J. Stepanek of LaPorte, Indiana.

Mr. Frost was the winner and Mr. Stepanek the runner-up. They received the A. Harold Weber Awards of \$150 and \$100, respectively.

Since 1959 the Faculty Advisor to the Moot Court has been Professor Conrad L. Kellenberg. He has contributed greatly to the progressive improvement of our moot-court program. To note one example, our students argue from actual appellate court records, not from hypothetical fabricated "cases," a few typewritten pages in length, such as are used in the National Moot Court Competition sponsored by the Young Lawyers Committee of the Association of the Bar of the City of New York. The actual records used in our moot-court arguments have been supplied, year after year, by the following: Chief Judge Charles S. Desmond of the Court of Appeals of New York, Judge Charles Fahy of the United States Court of Appeals for the District of Columbia, Judge Harry F. Kelly of the Supreme Court of Michigan, Judge Roger J. Kiley of the United States Court of Appeals for the Seventh Circuit, and Judge Walter V. Schaefer of the Supreme Court of Illinois. All of them are members of the Law Advisory Council except Judge Kelly, whose resignation was accepted with regret in 1962. We owe each one of them an enormous debt of gratitude.

The officers of the Moot Court for 1963-64 were:

Director, Mr. Joseph P. Mylotte, Philadelphia

Assistant Director, Mr. John J. Jiganti, Chicago

Assistant Director, Mr. James J. Zmigrocki, Chicago

Mr. Justice Goldberg of the Supreme Court of the United States will preside over the court hearing the 1964 final argument on October 10. Sitting with him will be Judge Carl McGowan of the

United States Court of Appeals for the District of Columbia and United States District Judge William J. Campbell of Chicago.

STUDENT LAW ASSOCIATION

The Student Law Association is the student body's governing organ. Among its most important responsibilities are administration of (1) the Honor System of unproctored examinations and (2) our student loan program.

The officers for 1963-64 were:

President, Mr. Thomas F. Conneely, Bradford, Pennsylvania

Vice-President, Mr. Frank J. Miele, Belleville, New Jersey

Secretary, Mr. Michael J. Flaherty, Buffalo

Treasurer, Mr. Ernest S. Zavodnyik, Cleveland

Third-year Representative, Mr. Charles A. Sweeney, Jr., South Bend

Second-year Representative, Mr. John P. McQuillan, Munster, Indiana

They did a first-rate job and Mr. Conneely, in particular, deserves a word of sincere thanks.

GRAY'S INN

Named for one of the four major Inns of Court, this student organization invites qualified speakers to discuss current social, economic and cultural topics which bear on law as well as strictly legal subjects. They are then expected to answer questions which, at times, are extremely searching. Among those who appeared at the Inn's informal, off-campus meetings during 1963-64 were the following:

Professor Robert E. Rodes and Rev. Stanley J. Parry, C.S.C., of the University's Department of Government: "Canon Law"

Mr. George Baroody, Senior Counsel, Arabian American Oil Company: "Trial Court in Arabia"

Professor J. F. Harty, University of Pittsburgh Law School: "The Use of Electronic Data Retrieval in Legal Research"

Mr. Justice Charles E. Whittaker: "Reminiscences of a Supreme Court Justice"

Professor John T. Noonan, Jr.: "Experiences in Urban Renewal"

Mr. David T. Link, '61L, Office of the Chief Counsel, Internal Revenue Service: "The Use of Electronic Data Retrieval in Legal Research"

Mr. Mark H. Berens of Meyer, Friedlich, Spiess, Tierney, Brown and Platt, Chicago: "International Legal Transactions"

Professor Harry W. Jones, Cardozo Professor of Jurisprudence, University of Columbia School of Law: "Law's Influence on Social Attitudes"

Professor Walter H. E. Jaeger, Georgetown University Law Center: "Product Liability"

Honorable Charles S. Desmond, Chief Judge, New York Court of Appeals: "Modern Trends in the Law — Abolition of the Jury in Civil Cases"

The officers for 1963-64 were:

Treasurer, Mr. Charles R. Macfarlane, Jr., San Antonio

Vice-Treasurer, Mr. Robert C. Findlay, Washington, D.C.

Master of Revels, Mr. Joseph E. McDonald, Louisville

Keeper of the Black Book, Mr. Steven A. Weidner, Waterloo, Iowa

Mr. Macfarlane, in particular, did an especially fine job.

PRIZE WINNERS

Mr. James P. Mercurio, of University City, Missouri, top man in the graduating class, was the recipient of the Hoynes Award of \$100.

The Lawyers Title Award of \$100, provided by the Lawyers Title Insurance Corporation of Richmond for excellence in the law of real property, went to Mr. Andrew J. Kopko of Portage, Indiana.

The Farabaugh Prize of \$25 was won by Mr. Charles P. Sacher of Miami, Note Editor of the *Notre Dame Lawyer*.

Mr. Ernest S. Zavodnyik of Cleveland was the recipient of the Law Week Award, a year's subscription to *United States Law Week*.

A. Harold Weber Awards for the best senior research papers went to Mr. Joseph B. Killian of Akron, who received the first prize of \$150; and Mr. Charles Macfarlane, Jr., of San Antonio and Mr.

Louis P. Pfeiler of Holy Cross, Iowa, each of whom received half of the \$100 second prize.

As noted earlier in this Report the A. Harold Weber Moot Court Awards were won by Mr. Robert E. Frost of Bellefontaine, Ohio, who received the first prize of \$150, and Mr. Michael J. Stepanek, Jr. of LaPorte, Indiana, who received the \$100 second prize.

PLACEMENT

While we recognize an obligation to help find suitable openings for our students, the primary responsibility, of necessity, rests on the students themselves. Obtaining suitable professional employment is no problem for students with a respectable law school performance record. However, there are always a few students who are dilatory about looking for a professional opportunity or who can't, or at least don't, make up their minds about where they want to go. There is little we can do for those who procrastinate.

Seven men were appointed to judicial clerkships, as follows:

Mr. J. Russell Bley by Judge Luther M. Swygert, United States Court of Appeals for the Seventh Circuit

Mr. Eugene L. Kramer by Judge Roger J. Kiley, United States Court of Appeals for the Seventh Circuit

Mr. James P. Mercurio by Judge J. Skelley Wright, United States Court of Appeals for the District of Columbia

Mr. Harlan P. Weir by Judge Charles J. Vogel of the United States Court of Appeals for the Eighth Circuit

Mr. Robert C. Findlay by United States District Judge William B. Jones in Washington, D.C.

Mr. Franklin A. Morse by United States District Judge Robert A. Grant in South Bend

Mr. Louis P. Pfeiler by United States District Judge John F. Kilkenny in Portland, Oregon

Those who have positions to fill and are desirous of considering men from the class of 1965 are urged to contact us *early* in the fall, since there is a strong trend toward earlier commitments. Campus interviews can be arranged to suit a visitor's convenience, and every member of the Faculty is happy to give his personal evaluation of an applicant. Please direct inquiries to Dean Joseph O'Meara, Notre Dame Law School, Notre Dame, Indiana.

BAR EXAMINATION RESULTS

We have heard from all members of the Class of 1963. Thirty-three passed on the first try in the state of intended practice, that is, 91.6%.

I do not think a law school ought to be judged by the success or failure of its students on the bar examinations; training men to be lawyers is not the same thing as training them to pass a bar examination. I adhere to the view, nevertheless, that, on the average, graduates of a good school should make a good showing. The performance of our 1963 graduates seems to me to fall short, since I regard anything less than total success as failure.

A news dispatch reports that a committee of graduates of the law schools at Columbia, Harvard and Yale has been appointed "to look into the situation of the bar exams in New York." It has needed looking into for a long time.

PROGRAM OF INSTRUCTION

Beginning with the forthcoming academic year, Federal Estate and Gift Taxation will be integrated with and taught as part of the third-year course on Estate Planning. Since the eight hours (four in each semester) allotted to the latter course have not been increased, the two hours formerly devoted to Federal Estate and Gift Taxation in the second semester of the third year will be available for other uses. This will make it possible for members of the Faculty, who volunteer for the purpose, to offer, on an elective basis, courses in areas of special interest to them. Each third-year student will be required to take one of these electives. He will be permitted to choose the one he prefers, subject to such restrictions as are necessary to prevent overcrowding of the courses which turn out to have the greatest student appeal. This is a development we have been looking forward to. I am confident it will be beneficial to Faculty and students alike.

Our Practice Court, under the direction of Professor Barrett and United States Circuit Judge Swygert, '27L, generates more intense interest than any other feature of our instructional program. The trials are held in the courtroom of the United States District Court in South Bend and are presided over by Judge Swygert. The witnesses and parties are South Bend business and professional men and their

wives, and members of the local Police and Fire Departments. Medical testimony, when appropriate, is given by physicians from the South Bend Medical Foundation and from St. Joseph's Hospital.

The student counsel are supplied with the name and address of their client (always someone unknown to them) and with nothing else. All they ever know about the case is what they elicit from their client and from the witnesses, whose names and addresses they must obtain from their client.

Having gotten the facts by interrogating their client and the witnesses, they must decide what to do, what sort of pleading to file, what to prove, which witnesses to use and in what order. They must then prepare and file, three days before the case is heard, a trial brief covering fully the issues of fact and law involved and containing requested instructions.

The cases are called promptly at 8:30 in the morning and, more than once, the jury (made up for the most part of first-year law students and girls from St. Mary's College) has not brought in its verdict until 8:30 that evening.

A well-deserved tribute to the excellence of our Practice Court was received by Professor Barrett from a member of the faculty of an eastern law school, who wrote: "I must admit to a high degree of envy regarding the degree of sophistication you have achieved in the conduct of your trials, but I can see it is not achieved easily."

THE FACULTY

Professor Edward F. Barrett addressed the Optimist Club in South Bend on "The Law, the Lawyer and the Layman."

Mr. G. Robert Blakey, '60L, was appointed to our Faculty with the rank of assistant professor, and we are delighted to have him with us. Upon his graduation in 1960 he joined the Organized Crime and Racketeering Section of the Department of Justice under the Attorney General's Recruitment Program for Honor Law Graduates. Upon hearing that Mr. Blakey was interested in teaching law, Attorney General Kennedy wrote me a letter strongly recommending him. In that letter the Attorney General said:

"I have personally observed Bob at the many organized crime meetings I have held in my office and have noticed that he knows

his cases and subjects thoroughly and approaches his job here with imagination, thoroughness and good judgment. Because of my interest in the Organized Crime Program I have tried to staff it with the best attorneys in the Department. Bob Blakey, in my judgment, fits this description."

In testimony before the Judiciary Committee of the House of Representatives in Washington, Professor Thomas F. Broden opposed proposals designed to nullify the decisions of the Supreme Court in reapportionment cases, particularly, *Baker v. Carr*, 369 U.S. 186(1962) and *Reynolds v. Sims*, 84 Sup. Ct. 1362(1964). He served as Vice-chairman of the South Bend Fair Employment Practices Commission and as Chairman of the Legislation Committee of the Citizens Fair Housing Committee of South Bend. In appearances before the City Council of South Bend, the Elkhart Council of United Church Women, the Elkhart County Human Relations Council and meetings of both Catholic and Protestant clergy, Professor Broden urged support of a fair housing ordinance. In addition, he delivered an address at St. Mary's College on the relation of law and morality.

Assistant Dean John J. Broderick, Jr., served on the Pre-Legal Education Committee of the Association of American Law Schools, and represented our School at the dedication of the American Bar Association Center in Chicago. He was Co-chairman of the 12th Annual Union Management Conference sponsored by the Department of Economics and the Notre Dame Law School, and addressed a luncheon meeting of the Notre Dame Law Association held in connection with the annual convention of the Iowa State Bar Association.

Professor Conrad L. Kellenberg has accepted appointment as Visiting Professor of Law at the University of East Africa in Tanganyika.

Professor Edward J. Murphy participated in a six-week conference at the University of Wisconsin Law School devoted to contemporary developments in Contracts and related fields. A small group of specially invited law teachers and sociologists took part in the conference. Professor Murphy's own case book, now in temporary edition, is being used in his Contracts course.

Professor John T. Noonan, Jr., attended the second International Congress of Mediaeval Canon Law, the annual meeting of the American Society of Legal and Political Philosophy and a Conference on

"Philosophy from Law" at Northwestern University Law School.

Professor Roger P. Peters delivered the Constitution Day address before the Rotary Club of South Bend. His subject was "Our Flexible Constitution."

Professor Robert E. Rodes, Jr., participated in an institute on religion and education sponsored by the National Conference of Christians and Jews. Later he spoke on natural law at St. Mary's College, Winona, Minnesota. In his own words he is making "slow progress" on his book on the legal history of the Established Church in England. His article on Canon Law, noted under Publications, will be a chapter of that book.

Professor Thomas L. Shaffer served as Reporter for the Indiana Trial Judges Seminar dealing with the judge's control over demonstrative evidence. He participated in a conference on Religion and the Schools at Purdue University, sponsored by the University of Michigan, Ohio State University and Purdue. He has been appointed a director of the Young Lawyers Section of the Indiana State Bar Association for 1964-65 and is the author of the monthly column "Young Lawyers in Action" published in the Indiana State Bar magazine.

Professor Bernard J. Ward, who has been serving as Reporter for the Advisory Committee on Appellate Rules of the Judicial Conference of the United States, was reappointed by Chief Justice Warren for an additional two-year term. As Reporter Professor Ward drafted the proposed appellate rules now being circulated among practicing lawyers, law teachers and judges for criticism and suggestions. He has discussed the draft rules at the annual conference of the Fifth, Seventh and Ninth Federal Judicial Circuits; and, in the near future, will discuss them before the annual conferences of the Third and Eighth Federal Judicial Circuits.

Professor Harris L. Wofford, presently on leave of absence, was named associate director of the Peace Corps.

President Johnson appointed me to the National Citizens Committee for the Community Relations Service, of which Mr. Arthur Dean is Chairman. I was a member of a panel which discussed "Responsibilities of Law Teachers in a Time of Challenge" at the annual meeting of the Association of American Law Schools in Los Angeles. At the request of the President of the Indiana State Bar Association I agreed to serve as a director of the Indiana Continuing Legal Education Forum.

SPECIAL EVENTS

SYMPOSIUM

One of the means by which we have sought to dramatize public-law problems and responsibilities has been a series of symposia, each dealing with a highly controversial problem of urgent national concern. The following subjects have been considered in this way:

Legislative Investigations

The Role of the Supreme Court in the American Constitutional System

Problems and Responsibilities of School Desegregation

Labor Union Power and the Public Interest

Next Steps to Extend the Rule of Law

Interstate Organized Crime

In keeping with the tradition thus established, a symposium was held on February 29, devoted to the constitutional amendments proposed by the Council of State Governments. Very briefly these amendments would (1) vest power to amend the Constitution in State legislatures; (2) set up a "Court of the Union," composed of the chief justice of the supreme court of each of the 50 states, which would have authority to review "any judgment of the Supreme Court relating to the rights reserved to the states or to the people by this Constitution"; (3) take from the federal courts all jurisdiction over the apportionment of representation in State legislatures.

The net effect of these proposed amendments, if adopted and held valid, would be to establish the principle of minority rule in this Country. It would enable State legislators representing a minority of the Nation's voters — a minority living in the less populated areas of the Country — to make the most drastic changes in our governmental system. This minority, for example, would have the legal power to amend the Constitution so as to abolish freedom of conscience and set up an established church. They could even go so far, by constitutional amendment, as to abolish the Federal Union itself and substitute for it a loose confederation, which appears to be the real goal of some of the advocates of the proposed amendments. This would leave us virtually defenseless in a hectic and aggressive world, for a confederation of 50 independent states, each free to go its own way, would be so weak that it could not possibly resist the might of Communism. Yet the majority of the Nation's voters would have no legal means of preventing these disasters.

If this is understood, there seems little likelihood that the amendments will be adopted. But they do have the militant support of an active minority; and there is real danger they will be adopted by default unless the people are made aware of the radical and vicious character of the changes they would make in our form of government. It was for this reason that we selected these proposed amendments as the subject of our Symposium.

The proposed amendments were discussed by Mr. Albert E. Jenner, Jr., well-known Chicago lawyer who has long been active in the American Bar Association, Professor Carl A. Auerbach of the University of Minnesota Law School and Professor Philip E. Kurland of the University of Chicago Law School.

In addition, Professor Paul Oberst of the University of Kentucky College of Law presented a paper tracing the genesis of the proposed amendments; and Professor Arthur E. Bonfield of the University of Iowa College of Law submitted a paper exploring their constitutional validity if they should be adopted.

All of the papers prepared for the Symposium will be published in the *Notre Dame Lawyer*.

LAW HONORS BANQUET

The President of the American Bar Association, Judge Walter E. Craig of Phoenix, was the featured speaker at the Law Honors Banquet on April 28. This annual affair affords an opportunity to salute the members of the student body who have distinguished themselves in one way or another. In addition, as in each of the last several years, it was the occasion for a joint observance of LAW DAY USA by the Notre Dame Law School and the St. Joseph County Bar Association. Judge Craig's predecessor as president of the American Bar Association, Mr. Sylvester C. Smith, Jr., of Newark, addressed last year's Law Honors Banquet; and his successor, Mr. Louis Powell of Richmond, will be the featured speaker in 1965. Mr. Powell's visit will mark the eighth consecutive year in which the Law Honors Banquet has been addressed by the president of the American Bar Association.

LAW BUILDING

In my first annual report, 11 years ago, I said:

"The Law Building is poorly planned. In consequence, it is inadequate to our needs and will become constantly more so."

The decline in enrollment, which began shortly thereafter in consequence of greater selectivity and the introduction of higher performance requirements, has operated to obscure the inadequacy of our physical plant. The prospective increase in enrollment again makes a new building a *real and present necessity*.

NATURAL LAW INSTITUTE

Rev. Bernard Haring, C.Ss.R., of the Pontifical University in Rome, one of the foremost theologians of our time, was invited to join the Editorial Board of the *Natural Law Forum* as an associate editor. In his reply Father Haring said:

"It is with gratitude for the honour that I accept your invitation to be one of the Forum's Associate Editors."

The full membership of the Editorial Board, in addition to the Editor, Professor John T. Noonan, Jr., of our Faculty, is as follows:

Professor Vernon J. Bourke, St. Louis University
 Mr. George W. Constable, Baltimore
 Professor William J. Curran, Boston University
 Professor David Daube, Oxford University
 Professor A. P. d'Entrèves, Turin University
 Professor Carl J. Friedrich, Harvard University
 Professor Lon L. Fuller, Law School of Harvard University
 Rev. Bernard Haring, C.Ss.R., Pontifical University in Rome
 Professor E. Adamson Hoebel, University of Minnesota
 Professor Iredell Jenkins, University of Alabama
 Professor Harry W. Jones, Columbia University School of Law
 Professor Wilber G. Katz, University of Wisconsin School of Law
 Provost Edward H. Levi, University of Chicago
 Professor Antonio de Luna, University of Madrid
 Professor Myres S. McDougal, Yale University Law School
 Professor F. S. C. Northrop, Yale University Law School
 Professor Adolf Portmann, University of Basel
 Professor H. A. Rommen, Georgetown University

Professor Philip Selznick, University of California

Professor Joseph P. Witherspoon, University of Texas School of Law

Professor Erik Wolf, University of Freiburg, Germany

The ninth issue of the *Forum* came off the press last spring. It is devoted, in material part, to an exploration of the role and influence of natural law in the emerging nations of Africa.

Contributors to the ninth issue represent six nations and 19 universities in this Country and abroad.

NOTRE DAME LAW ASSOCIATION

Mr. James M. Wetzel, '51L, of Chicago, was elected president at the annual meeting at Notre Dame in June. The Law Association has been blessed by a succession of able and dedicated presidents and Mr. Wetzel gives every indication of surpassing even the outstanding performance of his predecessors.

Other officers elected at the June meeting follow:

Honorary President, Mr. Maurice J. Moriarty, '51L, of Chicago
 Vice President, Mr. Joseph A. Tracy, '42, of New York
 Secretary, Mr. Raymond J. Broderick, '35, of Philadelphia
 Treasurer, Mr. Burton M. Greenberg, '58L, of St. Louis

Newly elected directors of the Association are:

Mr. John M. Crimmins, '33, of Pittsburgh
 Mr. Hugh F. Fitzpatrick, '34, of New York
 Mr. George P. Michaely, '56L, of Washington, D. C.
 Mr. John W. Schindler, Jr., '43L, of Mishawaka, Indiana
 Mr. William F. Spalding, '41, of Los Angeles
 Mr. Alphonse A. Sommer, '48, of Cleveland

At the request of the Board of Directors, the University has made available to the Association a full-time executive secretary. Mrs. Jeannette Allsop has been employed in that capacity; and I have every confidence that, under her extremely competent day-to-day direction, the Association and its program will prosper as never before, and that this will prove to be of immense value to The Law School.

LAW ADVISORY COUNCIL

Judge Hugh Boyle, '24, of Pittsburgh was elected chairman and Mr. Norman J. Barry, '48L, of Chicago was elected vice-chairman, each for a term of two years beginning in September of 1963.

Mr. Thomas P. Ford, '40, of the New York law firm of Shearman and Sterling, was elected to the Council. He is most welcome.

CONCLUSION

The mission of the Notre Dame Law School is to provide *the best possible legal education to the best possible students*. It is a mission that cannot be accomplished without progressively raising our sights. And that requires, first of all, a dedicated faculty willing and eager to pay the price of increasing excellence — in Father Hesburgh's words "hard, unrelenting mental labor." Such a faculty we have and I am proud of it. And I believe our students are willing to pay the price, too, and would be disappointed if not expected to do so. Hence we mean to push ahead, without compromise, toward fuller achievement of the goal set long ago. I have every reason to expect that, a year from now, I will be able to report a continuation of progress.

Many persons contributed to the progress made in 1963-64 — the Faculty, the student body, the Advisory Council, the Notre Dame Law Association and, of course, the Administration, without whose strong support little if anything could be accomplished. To all of them and to our many benefactors I am most deeply grateful.

Respectfully submitted,

Joseph O'Meara
Dean

August 15, 1964

FACULTY PUBLICATIONS

1963-64

EDWARD F. BARRETT

Book:

Practice Court Manual (Notre Dame, Indiana: Second Edition, 1964).

G. ROBERT BLAKEY

Articles:

Welfare and Pension Plans Disclosure Act Amendments of 1962, 38 *Notre Dame Lawyer* 263 (1963).

The Rule of Announcement and Unlawful Entry: *Miller v. United States and Ker v. California*, 112 *University of Pennsylvania Law Review* 499 (1964).

JOHN J. BRODERICK

Book:

Twelfth Annual Union-Management Conference on New Directions in Industrial Relations (University of Notre Dame, 1964). Co-editor.

EDWARD J. MURPHY

Book:

Contracts Casebook: Cases and Materials on the Law of Contracts and Sales, Volume II (Notre Dame, Indiana: Temporary Edition, 1964).

JOHN T. NOONAN

Book:

Contraception: A History of the Teaching of the Catholic Theologians and Canonists, accepted for publication by Harvard University Press.

Articles:

Comments on "Approaches to Court Imposed Compromise — The Uses of Doubt and Reason," 58 *Northwestern University Law Review* 795 (1963). Contributor.

Thomas More Among the Lawyers, 38 *New York University Law Review* 813 (1963). Contributor.

Book Review:

Raymond de Roover, *The Rise and Decline of the Medici Bank, 1397-1494* (Cambridge: Harvard University Press, 1963), 77 *Harvard Law Review* 1180 (1964).

ROGER PAUL PETERS

Book Review:

William O. Douglas, *The Anatomy of Liberty: The Rights of Man Without Force* (New York: Trident Press, 1963) 39 *Notre Dame Lawyer* 498 (1964).

ROBERT E. RODES, JR.

Article:

The Canon Law As A Legal System — Function, Obligation, and Sanction, 9 *Natural Law Forum* 45 (1964).

THOMAS L. SHAFFER

Book:

Readings on Common Law Method (Notre Dame, Indiana: Temporary Edition, 1964).

Articles:

Surface Water in Indiana, 39 *Indiana Law Journal* 59 (1963).

Bullets, Bad Florins and Old Boots: A Report of the Indiana Trial Judges Seminar on the Judge's Control over Demonstrative Evidence, 39 *Notre Dame Lawyer* 20 (1963).

Book Reviews:

Catherine Drinker Bowen, *Francis Bacon: The Temper of a Man* (Boston: Little, Brown & Co., 1963) 73 *Yale Law Journal* 537 (1964).

Lawrence X. Cusack and Thomas J. Snee, *Documents and Data for Estate Planning* (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1963) 39 *Notre Dame Lawyer* 356 (1964).

George Feifer, *Justice in Moscow* (New York: Simon and Schuster, 1964) accepted for publication in the *Minnesota Law Review*.

“ . . . It is a very real privilege to have been born in this particular period of history, face to face alike with *the opportunity for the alert and the challenge to the valiant* which always exists in a time like the present. . .”

— BISHOP WRIGHT